IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4329 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MIRUKHAN SAKUMIYAN PATHAN - Petitioner(s)
Versus
ADDITIONAL DIRECTOR (STETISTICS) & 1 - Respondent(s)

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Appearance :
MR DR BHATT for Petitioner(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MS KIRAN PANDEY, ASST. GOVERNMENT PLEADER for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 30/11/2006

ORAL JUDGMENT

1.By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction and/or order directing the respondents to give appointment to the petitioner to

the post of Statistical Assistant as per the communication dated 9.9.1991.

2.It is the contention on behalf of the petitioner that pursuant to the application submitted by the petitioner and after the interviews, the respondents prepared the select list and the name of the petitioner was at Sr. No.14 and inspite of that the petitioner was not appointed. It is also the contention on behalf of the petitioner in the present Special Civil Application that the candidates, who were below the petitioner in the select list came to be appointed and therefore, the action of the respondents in not appointing the petitioner on the basis of the aforesaid select list is illegal, discriminatory and in violation of Article 14 of the Constitution of India.

3.An affidavit in reply is filed on behalf of the respondents opposing the present Special Civil Application and it has been submitted that considering the backlog and the reservation, the candidates who were at Sr. Nos.15, 16 and 17 though below the petitioner in the select list, belonging to the Scheduled Caste and Scheduled Tribe Community, were appointed. It is also further submitted that the petitioner belongs to SEBC Community and therefore, no illegality has been committed by the respondents in appointing other persons below the petitioner.

4.Apart from the fact that, merely because the petitioner's name is included in the select list, the petitioner cannot claim appointment. Considering the

affidavit in reply that the candidates who were at Sr. Nos.15, 16 and 17 belonging to the Scheduled Caste and Scheduled Tribe Community were appointed on their respective reserved posts to clear the backlog, it cannot be said that there is any illegality committed by the respondents in appointing the persons who were at Sr. Nos.15, 16 and 17 and in not appointing the petitioner.

5.Under the circumstances, there is no substance in the present Special Civil Application and the same is required to be dismissed and is accordingly dismissed. Rule is discharged. No costs.

[M.R.SHAH, J.]

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